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1 July 1998

Mr. Lester Snow
Executive Director
CalFed-Bay/Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

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re: Comments on Draft Programmatic EIS/EIR for the CalFed-Bay/Delta Program

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Dear Mr. Snow:

Since 1992, water and power contractors to the federal Central Valley Project have had to address the significant issues of program development and execution associated with the environmental improvement mandates of the Central Valley Project Improvement Act (CVPIA). The contextual and factual similarities between CVPIA implementation efforts and the CalFed Program development efforts cannot be understated. Likewise, the significant CVP and CVP customer water and financial resources dedicated through the CVPIA towards ecological improvement in the Sacramento-San Joaquin River Delta and throughout the Central Valley cannot be overlooked as the cornerstone and current workhorse of any CalFed Program "solution". As you may be aware, the focus of our attention to CVPIA implementation has concerned both substantive issues of policy/program decisionmaking as well as issues of strategy and prioritization. It is in this context that we make the following comments on the Draft Programmatic EIS/EIR for the CalFed-Bay/Delta Program (Draft PEIS).

While we generally concur with others' comments on the Draft PEIS as to the document's technical and factual deficiencies as well as suggestions for improvement, we write to bring your attention to the fact that these comments and the Draft PEIS itself must be taken in the context of a Draft PEIS (and indeed a CalFed Program) that is not yet fully or properly defined in its purpose and objective. Consequently, policy and political decisionmaking upon the information in this document must recognize the factual and conclusory limitations of the Draft and Final PEIS.

A logically and legally supportable decision on what is "reasonable" or "prudent" is predicated on having a factual and reliable foundation for a proposed Program that itself has a demonstrable basis and ability to meet described objectives. The current CalFed Program and Draft PEIS evidence neither of these critical factors. For instance, before there is even an attempt at "phased implementation", the basic question of whether it is the Program's objective to prevent fish straying into the Delta or if the goal is to provide habitat in the interior Delta must be answered. The ecological improvement actions chosen for execution or evaluation are dependent on the answer to this type of foundational question.

1521 "I" Street
Sacramento, CA 95814
916/448-1638
916/446-1063 (fax)
CVPAssn@aol.com

C - 0 1 5 9 0 2

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Mr. Lester Snow, CalFed

1 July 1998

Page 2

Closely related to this necessary ecological decisionmaking is the strategy and evaluation associated with improving water storage and conveyance for human purposes¹. In essence, by failing to define the factual basis for proposals and failing to demonstrate a relationship between proposed action and potential results and between principal elements of the Program, creates an inherent inability to appropriately assess results and reasonableness. The Program implementation resulting from the PEIS evaluation cannot be a random series of actions. The Program must have and the PEIS must analyze some overall strategy and prioritization based on objective standards or criteria.

While broad programmatic goals can and should be established, the Program and PEIS analysis must acknowledge the very real limitations of fact before us. An incremental process of gaining necessary knowledge and executing a Program based on that accruing information in a fashion that builds upon itself (some may call this "adaptive") may be what the CalFed Program requires. This is particularly salient given the evolving state of knowledge and interactive nature of the principal CalFed objectives of ecological and water supply improvement and sustainability. These objectives must be analyzed jointly and severally as their respective fundamental purposes are not identical, but their ultimate execution must be compatible (if not synergistic).

Further it is necessary to acknowledge the necessarily and vastly different timelines of development and implementation of the CalFed Program elements as well as the limitations of analysis and conclusion at this point in the process. In this light, we would suggest that the CalFed Program and Draft PEIS focus its evaluation of Program costs and benefits not from the perspective that the whole Program and the interaction of its elements is within the grasp of current knowledge and analysis, but rather from the perspective that Program elements must be first evaluated for cost and benefit separately and based on facts and reality before an integrated and more hypothetical programmatic evaluation can occur. In this manner, a proper evaluation of ecological improvement actions and alternatives can occur -- as can appropriate evaluation of water supply improvement actions and alternatives.

Selection of a Preferred Alternative will result in the choice of a path (not necessarily a concretely chosen plan of action, but a more general direction) for each element, with additional analysis of how those elements interact. Implementation of basic Program elements (such as activities to protect and benefit species of concern, and engineering analysis of water supply infrastructure) will thus be more quickly executed on fact and merit. It is inconceivable that there is not several years of such basic work that can and should be done. These initial phases of work would be the foundation for any CalFed "solution" ultimately chosen or arrived at during the next 50 years.

¹ On this point, the CalFed Program appears to be premised on ideas such as, "The Strategic Plan of CalFed is to be a guide for achieving a reasonable level of 'ecosystem quality' for the Sacramento-San Joaquin estuary and its watershed in a way that still allows sufficient water to be available to drive the diverse California economy" (emphasis added). Ecological improvement and water supply and water quality improvement cannot be viewed in this outdated manner as being in a mutually exclusive and inverse relationship. In fact, it is precisely this kind of thinking that CalFed was intended to move beyond in the "get better together" fashion.

Mr. Lester Snow, CalFed

1 July 1998

Page 3

Finally, the scope and specificity of the PEIS actions must be consistent to be reasonably and prudently evaluated. For instance, with the significant interrelationship between Program elements, it would be inappropriate to describe a Program or Preferred Alternative in the PEIS that focuses almost exclusively on ecological benefit activities and does not fully and adequately address water supply and water quality improvement objectives and solutions as a co-equal rather than dependent elements. To attempt to describe and analyze the totality of the CalFed "solution" before even knowing (or using best available scientific information and taking an educated guess on) what the available ingredients are is an invitation to certain disaster -- or at the very least, continued inaction -- as incompleteness and inconsistency of purpose and objective drives up respective stakeholders' risk factors and assurance needs/demands.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Peltier", with a stylized flourish at the end.

Jason Peltier